

**Proposed Substitute  
Bill No. 468**

LCO No. 3526

**AN ACT CONCERNING THE COMMISSION ON HUMAN RIGHTS AND  
OPPORTUNITIES.**

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. Subsection (b) of section 46a-84 of the 2016 supplement to  
2 the general statutes is repealed and the following is substituted in lieu  
3 thereof (*Effective October 1, 2016*):

4 (b) [Upon] Except as provided in this section, upon (1) certification  
5 of a complaint filed pursuant to subsection (a) or (b) of section 46a-82,  
6 (2) the filing of a complaint pursuant to subsection (c) of said section,  
7 or (3) a decision to hear a complaint, which is made pursuant to  
8 subsection (e) of section 46a-83, the Chief Human Rights Referee shall  
9 appoint a human rights referee to act as a presiding officer to hear the  
10 complaint. The chief referee shall also appoint an individual  
11 authorized by subsection (e) of this section or a referee, other than the  
12 referee appointed to hear the complaint, to conduct settlement  
13 negotiations. The chief referee shall serve in the name of the  
14 commission a copy of the complaint, as the same may have been  
15 amended, requiring the respondent to answer the charges of the  
16 complaint, together with a written notice requiring the respondent to  
17 appear at a hearing or settlement conference at a date and time  
18 specified in the notice. A hearing on a complaint filed pursuant to  
19 subsection (a) or (b) of section 46a-82 shall be commenced by

20 convening a hearing conference not later than forty-five days after (A)  
21 the certification of the complaint, or (B) the decision made pursuant to  
22 subsection (e) of section 46a-83 to hear the complaint, as applicable.  
23 Such hearing shall be a de novo hearing on the merits of the complaint  
24 and not an appeal of the commission's processing of the complaint  
25 prior to its certification or of its decision made pursuant to subsection  
26 (e) of section 46a-83 to hear the complaint. A hearing on a complaint  
27 filed pursuant to subsection (c) of section 46a-82 shall be commenced  
28 by convening a hearing conference not later than twenty days after the  
29 date of notice of such complaint. [Hearings shall proceed with  
30 reasonable dispatch and be concluded in accordance with the  
31 provisions of section 4-180.]

32 Sec. 2. Section 46a-84 of the 2016 supplement to the general statutes  
33 is amended by adding subsections (h), (i) and (j) as follows (*Effective*  
34 *October 1, 2016*):

35 (NEW) (h) Each party shall be afforded the opportunity to inspect  
36 and copy relevant and material records, papers and documents not in  
37 the possession of the party, except as otherwise provided by applicable  
38 state or federal law. The presiding officer may order the production of  
39 such records, papers and documents, and where a party fails to  
40 comply within thirty days of such order, the presiding officer may  
41 issue a nonmonetary order deemed just and appropriate, including,  
42 but not limited to, an order (1) finding that the matters that are the  
43 subject of the production order are established in accordance with the  
44 claim of the party requesting such order, (2) prohibiting the party who  
45 has failed to comply from introducing designated matters into  
46 evidence, (3) limiting the participation of the noncomplying party with  
47 regard to issues or facts relating to the production order, or (4)  
48 drawing of an adverse inference against the noncomplying party.

49 (NEW) (i) Hearings shall proceed with all reasonable speed and be  
50 concluded in accordance with the provisions of this subsection and  
51 section 4-180. The presiding officer shall issue a final order not later  
52 than eighteen months from the date (1) the complaint is certified

53 pursuant to subsection (a) of this section, or (2) the decision is made  
54 pursuant to subsection (e) of section 46a-83 to hear the complaint, as  
55 applicable. The commission, the complainant or the respondent may  
56 apply to the superior court for the judicial district of Hartford for an  
57 order requiring the presiding officer to comply with the provisions of  
58 this subsection and section 4-180. The court, after hearing, shall issue  
59 an appropriate order. Not later than January 1, 2017, and annually  
60 thereafter, the Chief Human Rights Referee shall annually report, in  
61 accordance with the provisions of section 11-4a, to the joint standing  
62 committee of the General Assembly having cognizance of matters  
63 relating to the judiciary on: (A) The number of final decisions in the  
64 previous fiscal year that exceeded the time frame and the reasons for  
65 the failure to comply; and (B) the number of complaints pending final  
66 decision in the previous fiscal year that have exceeded the time frame  
67 and the reasons for the failure to comply.

68 (NEW) (j) The Chief Court Administrator shall designate judge trial  
69 referees who shall be available to the Commission on Human Rights  
70 and Opportunities to act as presiding officers at any hearing or  
71 proceeding of the commission conducted pursuant to this section,  
72 subsection (l) of section 46a-83 or subsection (c) or (d) of section 46a-56.  
73 Any judge trial referee so designated shall have the same powers and  
74 duties as a human rights referee appointed pursuant to section 46a-57.  
75 Any judge trial referee so designated shall be compensated in  
76 accordance with the provisions of section 52-434 from such funds as  
77 may be available to the commission. A judge trial referee may also  
78 hear complaints filed under subsection (e) of section 4-61dd. Whenever  
79 the total number of complaints at public hearings that have not been  
80 resolved by final decision pursuant to section 46a-86 exceeds one  
81 hundred or subsection (e) of section 4-61dd exceeds one hundred, the  
82 executive director of the commission, within available appropriations,  
83 may appoint a judge trial referee designated by the Chief Court  
84 Administrator to preside at a settlement conference or to hear and  
85 decide a complaint. The executive director shall make the appointment  
86 of a judge trial referee not later than fifteen days following the date of  
87 (1) the certification of the complaint, or (2) the decision made pursuant

88 to subsection (e) of section 46a-83 to hear the complaint, as applicable.  
89 In lieu of appointing a judge trial referee to conduct a settlement  
90 conference, the executive director may appoint an individual  
91 authorized by subsection (e) of this section to conduct settlement  
92 negotiations. If the executive director fails to appoint a judge trial  
93 referee or individual authorized by subsection (e) of this subsection,  
94 the chief human rights referee, as provided in subsection (b) of this  
95 section, shall appoint a human rights referee to hear the complaint, or  
96 a human rights referee or an individual authorized by subsection (e) of  
97 this section to conduct a settlement conference.

98 Sec. 3. Section 46a-55 of the 2016 supplement to the general statutes  
99 is amended by adding subsections (c) and (d) as follows (*Effective*  
100 *October 1, 2016*):

101 (NEW) (c) The executive director, through the supervising attorney,  
102 may assign a commission legal counsel to represent the interests of the  
103 state in any suit or other proceeding in which civil or human rights are  
104 at issue. Commission legal counsel may intervene as a matter of right  
105 in any such suit or proceeding without permission of the parties, the  
106 presiding officer or the court.

107 (NEW) (d) The executive director, through the supervising attorney,  
108 may, within available appropriations, assign a commission legal  
109 counsel to bring a civil action, in accordance with this subsection, in  
110 lieu of an administrative hearing pursuant to section 46a-83 or 46a-84,  
111 as amended by this act, when the executive director determines that a  
112 civil action is in the public interest. The commission legal counsel shall  
113 bring a civil action in the Superior Court not later than ninety days  
114 following the date the commission legal counsel notifies the parties of  
115 the executive director's determination. Such civil action may be served  
116 by certified mail and is not subject to the provisions of section 46a-100,  
117 46a-101 or 46a-102. The jurisdiction of the Superior Court in an action  
118 brought under this subsection shall be limited to such claims,  
119 counterclaims, defenses or the like that could be presented at an  
120 administrative hearing before the commission, had the complaint

121 remained with the commission for disposition. A complainant may  
122 intervene as a matter of right without permission of the court or the  
123 parties. The civil action shall be tried to the court without a jury. If the  
124 commission legal counsel determines that the interests of the state will  
125 not be adversely affected, the complainant or attorney for the  
126 complainant shall present all or part of the case in support of the  
127 complaint. The court may grant any relief available under section 46a-  
128 104. Where the Superior Court finds that a respondent has committed  
129 a discriminatory practice, the court shall grant the commission its fees  
130 and costs and award the commission a civil penalty, not exceeding ten  
131 thousand dollars, which shall be payable to the commission and used  
132 by the commission to advance the public interest in eliminating  
133 discrimination.

134       Sec. 4. Section 46a-68c of the 2016 supplement to the general statutes  
135 is repealed and the following is substituted in lieu thereof (*Effective*  
136 *October 1, 2016*):

137       In addition to the provisions of section 4a-60, each contractor with  
138 fifty or more employees awarded a public works contract, municipal  
139 public works contract or contract for a quasi-public agency project in  
140 excess of fifty thousand dollars in any fiscal year, but not subject to the  
141 provisions of section 46a-68d, shall develop and file with the  
142 Commission on Human Rights and Opportunities an affirmative  
143 action plan which shall comply with regulations adopted by the  
144 commission. Failure to develop an approved affirmative action plan  
145 pursuant to this section shall act as a bar to bidding on or the award of  
146 future contracts until such requirement has been met. The executive  
147 director or the executive director's designee shall review and formally  
148 approve, conditionally approve or disapprove the content of the  
149 affirmative action plan not later than ninety days following the date of  
150 the submission of the plan to the commission. If the executive director  
151 or the executive director's designee, fails to approve, conditionally  
152 approve or disapprove a plan within such period, the plan shall be  
153 deemed to be approved. When the [commission] executive director or  
154 the executive director's designee approves an affirmative action plan

155 pursuant to this section, it shall issue a certificate of compliance to the  
156 contractor. This certificate shall be prima facie proof of the contractor's  
157 eligibility to bid or be awarded contracts for a period of two years from  
158 the date of the certificate. Such certificate shall not excuse the  
159 contractor from monitoring by the commission or from the reporting  
160 and record-keeping requirements of sections 46a-68e and 46a-68f. The  
161 [commission] executive director or the executive director's designee  
162 may revoke the certificate of a contractor if the contractor does not  
163 implement its affirmative action plan in compliance with this section  
164 and sections 4a-60, 4a-60g, 4a-62, 46a-56, 46a-68b, 46a-68d, and 46a-68e  
165 to 46a-68k, inclusive.

This act shall take effect as follows and shall amend the following sections:		
Section 1	<i>October 1, 2016</i>	46a-84(b)
Sec. 2	<i>October 1, 2016</i>	46a-84
Sec. 3	<i>October 1, 2016</i>	46a-55
Sec. 4	<i>October 1, 2016</i>	46a-68c